



U.S. Department of Justice  
Office of Legislative Affairs

Office of the Assistant Attorney General

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MEMORANDUM FOR THE ATTORNEY GENERAL<sup>3</sup>

FROM: Daniel J. Bryant *29B*  
Assistant Attorney General

SUBJECT: Weekly Report for May 21, 2001 - May 25, 2001

THIS WEEK

**Child Internet Protection Act (CIPA):** The Civil Division sent a representative on Monday, May 21, to brief Representative Istook on the status of a lawsuit challenging CIPA on constitutional grounds. Congressman Istook was a principal sponsor of this legislation. Several library groups and the ACLU have filed suit seeking to have the law declared unconstitutional. (Owen)

**World War II Memorial:** On Tuesday, May 15, the House considered H.R. 1696, a bill to expedite the construction of the World War II Memorial on the National Mall, under suspension of the rules. The bill passed 400-15. On Monday, May 21, the Senate passed this bill by unanimous consent. [REDACTED]

(Pearlman)

FOIA EXEMPTION (b)5

**Superfund Small Business Liability:** On Monday, May 21, the House approved H.R. 1831, "The Small Business Liability Relief Act." by a vote of 368-0. This bill exempts small businesses from superfund liability. (Pearlman)

**Ira Einhorn Extradition:** The House Government Reform Subcommittee in Criminal Justice, Drug Policy and Human Resources has scheduled a hearing on "Justice Delayed: Extradition and the Ira Einhorn Case" on June 7, 2001. We will meet with Subcommittee staff on May 22, 2001, to discuss shifting the focus of the hearing away from a pending case. Criminal Division DAAG Bruce Swartz will testify if the hearing goes forward. (Tanner)

**House Government Reform Subpoena for Criminal Division Declination Memorandum:** On May 22, 2001, we expect to receive a subpoena from the Committee for an internal Criminal Division Memorandum reflecting attorney deliberations that conclude in a recommendation that we decline to prosecute a particular individual for misstatements made in a Committee staff interview. We have already briefed the staff on the reasons for this decision in an effort to

accommodate their information needs while protecting our significant confidentiality interests in this document. We hope that we can resolve this matter by making the document available for review rather than actually producing a copy to the Committee. The Committee has outstanding requests for additional declination memoranda relating to other matters. (F.Burton)

**Clean Water Act:** On Tuesday, May 22, staff from OLA and ENRD will meet with Congressman Pombo to discuss the use of private enforcement actions under the Clean Water Act. (Pearlman, Thorsen)

**Identity Theft:** The Criminal Division will testify on Wednesday, May 23, on identity theft before the House Energy and Commerce Committee. The Senate Banking Committee has also indicated an interest in holding a hearing on this topic during the first week of June. (Gwen)

**Nominations:** The Senate Government Affairs Committee held a hearing on the nominations of Erik P. Christian and Maurice A. Ross, both to be Judges on the D.C. Superior Court, on May 22. Both nominees will be on the Committee markup set for May 23.

The Senate Judiciary Committee has scheduled a hearing on the following nominations for May 23: Ralph Boyd, to be Assistant Attorney General for the Civil Rights Division; Robert McCallum, to be Assistant Attorney General for the Civil Division; John Roberts, to be a United States Circuit Judge for the D.C. Circuit; and Deborah Cook and Jeffrey Sutton, both to be United States Circuit Judges for the Sixth Circuit Court of Appeals. Both Messrs. Boyd and McCallum are meeting with Senators Hatch and Specter this week. Mr. Boyd is also meeting with Senators Thurmond and McConnell.

John Gillis, nominated to be Director of the Office of Victims of Crime, is meeting with Senator McConnell and staff for Senator Feinstein this week; he met with Senator Kyl last Friday.

We have offered courtesy visits for Ted Olson with all of the Democratic Senators. Mr. Olson met with Senator Bingaman on Monday and will be meeting with Senators Levin and Torricelli on Thursday. Senate Judiciary Committee staff will be conducting a limited bipartisan probe into concerns about the Olson nomination. The Committee deadlocked 9-9 last week on a party line vote on the nomination. Senator Lott has said that if the Committee does not reach an agreement by the end of the week, he will file a discharge motion to force the nomination to the floor.

On May 17, the Senate Judiciary Committee approved the nominations of Michael Chertoff to be Assistant Attorney General for the Criminal Division, and Viet Dinh to be Assistant Attorney General for the Office of Legal Policy, each by an 18-0 vote. (Scott-Finan)

**Alabama Bombing Case:** On May 24, U.S. Attorney for the Northern District of Alabama Doug Jones will be meeting with staff for Senator Specter about the recently completed case in Alabama which involved new FBI evidence.

**SPAM:** The House Judiciary Committee will hold a markup this week on House versions of the bill (H.R. 718, H.R. 1017). The Judiciary Committee's sequential referral expires on June 5.

**2001.** The Department is currently consulting with the White House and other agencies regarding these bills, all of which have criminal enforcement provisions. (Owen)

**Bankruptcy:** OMB is circulating for comment a letter to the Speaker of the House. The letter reiterates the Administration's support of the goals of the bankruptcy bill, but also objects to the Senate version of the homestead exemption and urges the yet unnamed conferees to support the bipartisan compromise language agreed to in the last Congress. Timing of the conference is still uncertain. (Wilson)

#### **THE WEEK AHEAD**

**SW Border - Prescription Drugs:** The House Committee on Energy and Commerce hearing concerning the flow of prescription drugs into the United States scheduled for May 24, 2001, has been postponed due to scheduling conflicts. No new date has been set. The hearing will address importation of prescription drugs by mail, and also land imports pursuant to the Controlled Substances Trafficking Prohibition Act of 1998, Public Law No. 105-357. This Act allows individuals to bring into the United States from another country up to 50 doses of controlled substances (other than Schedule I) without a prescription. DEA has been asked to provide a witness. (Tanner)

**Council of Europe Cyber Crime Convention:** On Wednesday, May 23, the Department will brief staff from Senate Judiciary Committee (Hatch/Chair) on the current status of the draft convention. A similar briefing is tentatively scheduled for Tuesday, May 29, with Joint Economic Committee staff (Bennett/Chair) staff. Note: This briefing was originally scheduled for Friday, May 18 and cancelled on short notice. (Daley)

**Fighting Cyber Crime:** On Thursday, May 24, the House Judiciary Subcommittee on Crime (Smith/Chair) will hold a hearing on state and local law enforcement efforts to combat cyber crime. This is the first in a series of cyber crime hearings to be conducted by the subcommittee. (Daley)

**Field Hearing: Winter Olympics Security:** On Thursday, May 31, the Deputy Attorney General will testify at a field hearing in Salt Lake City, Utah before the Senate Judiciary Committee (Hatch/Chair). The hearing will highlight the cooperation and coordination between law enforcement in preparation for the Winter Olympics next year. (Daley)

**Consequences for Juvenile Offenders Act of 2001:** On April 19, the Department sent its views on H.R. 863, "Consequences for Juvenile Offenders Act of 2001" to the House Judiciary Committee. Full Committee markup has already occurred on this bill, and House floor consideration is expected in the next few weeks. We supported the bill. Representative Greenwood has indicated that a hearing is tentatively scheduled on June 6 on provisions he had introduced in H.R. 1150 in the 105th Congress and that were included in H.R. 1501 in the 106th (sections 1312-1314). We have declined an invitation to testify, but have been asked to submit written views. (Owen)

**Unaccompanied Minors:** Staff from OLA and INS are working with House Immigration Subcommittee Chairman Gekas and Ranking Member Jackson Lee on scheduling Member briefings in mid-July to discuss current protocol with respect to juvenile detainees. Representatives from EOIR will attend as well. (D.Burton)

### **THE WEEK IN REVIEW**

**Immigration Issues Oversight:** On Tuesday, May 15, Kevin Rooney, Acting Commissioner for the INS, and Peggy Philbin, Acting Director for Executive Office for Immigration Review, testified before the House Judiciary Subcommittee on Immigration, regarding current immigration-related operations and the President's FY '02 budget request. (D.Burton)

**Hanssen:** The Senate Select Committee on Intelligence held a hearing on the case's status on May 15 with FBI Director Freeh in his last appearance before the Committee before he resigns from the Bureau. The Attorney General appeared before the Committee on May 17 at Chairman Shelby's request to provide a briefing on the indictment of Hanssen returned on May 16 in the Eastern District of Virginia, and on the case's status. (Walter)

**Senate Drug Caucus:** On May 15, 2001, the Senate Caucus on International Narcotics Control conducted a hearing on "The Transit Zone: Strategy and Balance." DEA Administrator Donnie Marshall testified. (Tanner)

**DOJ Authorization:** On May 15, the House Judiciary Crime Subcommittee held a hearing on the Criminal Division, Office of Justice Programs (OJP) and Community Oriented Policing Services Office (COPS). Criminal Division Chief of Staff Michael Horowitz; Acting Assistant Attorney General for OJP, Mary Lou Leary; and Acting Director of the COPS Program Ralph Justice testified. (Thorsen)

**Casa De Web:** On May 17, a representative from OLA accompanied representatives from the Telecommunications Intercept and Collection Technology Unit of the FBI's Laboratory Division to a briefing for Senate Intelligence Committee staff on this digital communications intercept program. (Walter)

**RECA:** On Thursday, May 17, staff from the Civil Division and OLA participated in a town hall event with staff from Senator Daschle's office in Edgemont, South Dakota, on the RECA program. We explained the purpose of the program, its requirements, answering questions and helped constituents fill out RECA applications. (Pearlman)

**Florida Elections:** Representatives of the Civil Rights Division, accompanied by OLA, briefed both Senators Graham and Nelson on May 17 in response to their requests for updates about our work in Florida following last November's election. (Scott-Finan)

**Antitrust:** Acting Assistant Attorney General John Nannes testified at a May 17 hearing before the Senate Appropriations Subcommittee on Agriculture concerning agricultural market concentration. (Coughlin, Slover)

**INS Appropriations:** On Thursday, May 17th, Kevin Rooney testified before the Senate Commerce, Justice and State Subcommittee regarding the President's FY '02 budget request for the INS. (D.Burton)

**SPAM:** The House Judiciary Committee held a hearing on House versions of the bill (H.R. 718, H.R. 1017) on Thursday, May 10, and has asked to consult with the Department on technical matters. A House Judiciary Committee markup is expected shortly. The Judiciary Committee's sequential referral expires on June 5, 2001. The Department is currently consulting with the White House and other agencies regarding these bills, all of which have criminal enforcement provisions. (Owen)